

## Office of the Secretary, Commerce

## § 26.200

of foreign governments or foreign governmental entities;

(iii) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(iv) Federal employment;

(v) Transactions pursuant to national or agency-recognized emergencies or disasters;

(vi) Incidental benefits derived from ordinary governmental operations; and

(vii) Other transactions where the application of these regulations would be prohibited by law.

(3) *Department of Commerce covered transactions.* These Department of Commerce regulations apply to the Department's domestic assistance covered transactions (whether by a Federal agency, recipient, subrecipient, or intermediary) including, except as noted in paragraph (a)(2) of this section: grants, cooperative agreements, scholarships, fellowships, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreement subawards, subcontracts and transactions at any tier that are charges as direct or indirect costs, regardless of type (including subtier awards under awards which are statutory entitlement or mandatory awards).

(b) *Relationship to other sections.* This section describes the types of transactions to which a debarment or suspension under the regulations will apply. Subpart B, "Effect of Action," § 26.200, "Debarment or suspension," sets forth the consequences of a debarment or suspension. Those consequences would obtain only with respect to participants and principals in the covered transactions and activities described in § 26.110(a). Sections 26.325, "Scope of debarment," and 26.420, "Scope of suspension," govern the extent to which a specific participant or organizational elements of a participant would be automatically included within a debarment or suspension action, and the conditions under which affiliates or persons associated with a participant may also be brought within the scope of the action.

(c) *Relationship to Federal procurement activities.* In accordance with E.O. 12689

and section 2455 of Public Law 103-355, any debarment, suspension, proposed debarment or other governmentwide exclusion initiated under the Federal Acquisition Regulation (FAR) on or after August 25, 1995 shall be recognized by and effective for Executive Branch agencies and participants as an exclusion under this regulation. Similarly, any debarment, suspension or other governmentwide exclusion initiated under this regulation on or after August 25, 1995 shall be recognized by and effective for those agencies as a debarment or suspension under the FAR.

[53 FR 19177, 19204, May 26, 1988, as amended at 53 FR 19178, May 26, 1988, 60 FR 33041, 33044, June 26, 1995]

### § 26.115 Policy.

(a) In order to protect the public interest, it is the policy of the Federal Government to conduct business only with responsible persons. Debarment and suspension are discretionary actions that, taken in accordance with Executive Order 12549 and these regulations, are appropriate means to implement this policy.

(b) Debarment and suspension are serious actions which shall be used only in the public interest and for the Federal Government's protection and not for purposes of punishment. Agencies may impose debarment or suspension for the causes and in accordance with the procedures set forth in these regulations.

(c) When more than one agency has an interest in the proposed debarment or suspension of a person, consideration shall be given to designating one agency as the lead agency for making the decision. Agencies are encouraged to establish methods and procedures for coordinating their debarment or suspension actions.

## Subpart B—Effect of Actions

### § 26.200 Debarment or suspension.

(a) *Primary covered transactions.* Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for